

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SOLOMON BOOMER,

Plaintiff,

v.

JOSE DEPERIO, et al.,

Defendants.

DECISION & ORDER

03-CV-6348L

Plaintiff Solomon Boomer (“Boomer”), acting *pro se*, has filed a complaint pursuant to 42 U.S.C § 1983 alleging that defendants violated his constitutional rights by acting with deliberate indifference to his medical condition, diabetes, while he was incarcerated at Attica Correctional Facility. (Docket # 6). On August 28, 2009, this Court issued a Decision and Order denying motions by Boomer for sanctions, additional discovery and appointment of counsel, familiarity with which is assumed. (Docket # 68). Currently pending before this Court is Boomer’s motion for reconsideration of that Decision and Order. (Docket # 69).

“The standard for granting [a motion to reconsider] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp. Inc.*, 70 F.3d 255, 257 (2d Cir. 1995) (citations omitted). If the moving party presents no legal authority or facts that the court failed to consider, then the motion to reconsider should be denied. *Id.* (“a motion to reconsider should not be granted where the moving party seeks solely to relitigate an issue already decided”).

Here, Boomer has not presented any legal authority or facts that this Court has overlooked. Rather, Boomer seeks to relitigate the issues by arguing that the Court's decision was prejudicial to him. On the record before me, I find that Boomer has not met the requisite burden mandating reconsideration. Accordingly, plaintiff's motion for reconsideration (**Docket # 69**) is **DENIED**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
October 15, 2009.